

Exempt Organizations — Requirements for Filing Returns and Paying Filing Fees

References in these instructions are to the Internal Revenue Code (IRC) as of January 1, 1998, and to the California Revenue and Taxation Code (R&TC).

The Reporting Requirements —

An organization that has been granted tax-exempt status by the Franchise Tax Board may be required to file one or more of the following returns.

Form	Title	Section(s)
199	Exempt Organization Annual Information Return	R&TC 23772 and 23774
109	Exempt Organization Business Income Tax Return	R&TC 23771 and 18506
100	Corporation Franchise or Income Tax Return	R&TC 23701r and 23701t

The Franchise Tax Board mails forms to exempt organizations shortly after the last day of the organization's accounting period if the exempt organization's designated accounting period and current address are on file. New organizations and organizations that do not receive the forms in the mail may obtain them from any office of the Franchise Tax Board. It is the organization's responsibility to obtain and file the forms by the due date.

A Form 199

Exempt Organization Annual Information Return

The requirement to file Form 199 is generally based upon total gross receipts. If gross receipts are normally not more than \$25,000, the organization is not required to file. If gross receipts are normally greater than \$25,000, Form 199 is required.

Gross receipts of an organization are normally not more than \$25,000 when the organization.

Has been in Existence	AND Gross Receipts/Pledges Equal
1 year or less	\$37,500 or less
2 years	\$30,000 or less (average for 2 years)
3 years or more	\$25,000 or less (average for current year and 2 prior years)

The filing requirement for some organizations is established by law, without regard to the amount of gross receipts received. The following organizations:

- **Must file** Form 199 every year.
 - Private foundations;
 - Nonexempt charitable trusts described in IRC Section 4947(a)(1).
- **Are not required** to file Form 199 regardless of the amount of total gross receipts normally received.
 - Churches, interchurch organizations of local association units of a church, conventions or associations of churches, or integrated auxiliaries of churches;
 - Religious orders;
 - Organizations formed to carry out a function of a state, or public body that is carrying out that function and is controlled by the state or a public body;
 - Political organizations;
 - Pension trusts;
 - Education IRAs.
 - Qualified state tuition programs

Filing Fee

Organizations required to file Form 199 are also required to pay a filing fee. The

amount of the fee depends upon when payment is made.

- If **paid** on or before the original due date or extended due date, the fee is \$10.
- If **paid** after the original due date or extended due date, the fee is \$25.

See Extension of Time to File.

Exception: Certain organizations exempt under R&TC Section 23701d are not required to pay the filing fee. Those organizations are:

- Exclusively religious organizations;
- An exclusively educational organization, if such organization maintains a regular faculty and curriculum and has students at the place where its educational activities are regularly carried on;
- An exclusively charitable organization or an organization for the prevention of cruelty to children or animals, if such organization is supported, in whole or in part, by funds contributed by the United States or any state or political subdivision, or is primarily supported by contributions of the general public; or
- An organization which is operated, supervised, or controlled by or in connection with an exclusively religious organization.

Due Date

Form 199 is due on or before the 15th day of the fifth month after the close of the accounting period. If the accounting period ends on December 31, the due date is May 15. If the due date for filing falls on a Saturday, Sunday, or legal holiday, file by the next regular workday.

Failure to Timely File Form 199

A delinquent penalty of \$5 for each month (or part thereof) will be assessed if Form 199 is not filed by the due date including the extension. The maximum penalty is \$40 and may be waived if the organization can show that the late filing was due to reasonable cause and not willful neglect.

In the case of a private foundation, the Franchise Tax Board may request in writing that a delinquent return or foundation report be filed within a reasonable time. The person who fails to file the return or report after this written request is subject to a penalty of \$5 for each month (or part thereof), not to exceed \$25, computed after the expiration of the time allowed to respond.

The penalty is in addition to the penalty for late filing of Form 199 and may be waived if it can be shown that the late filing was due to reasonable cause and not willful neglect.

Definition

Gross Receipts — For purposes of Form 199, "gross receipts" are defined as the gross amount received by the organization during its annual accounting period from all sources, without reduction for any costs or expenses, including costs of goods sold, cost of operations, or expenses of earning, raising, or collecting such amounts. Thus gross receipts include, but are not limited to, (1) the gross amount received as contributions, gifts, grants, and similar amounts, without reduction for the expenses of raising and collecting such amounts; (2) the gross amount received as dues or assessments from members or affiliated organizations, without reduction for expenses attributable to the receipt of such amounts; (3) gross sales or receipts from all business activities, including business activities unrelated to the purpose for which the organization received an exemption, the net income or loss of which may be required to be reported on Form 109; (4) the gross amount received from the sale of assets, without deduction for the cost or other basis of the property, expense of the property and expense of sale; and (5) the gross amount received as investment income such as interest, dividends, rents and royalties.

B Form 109

Exempt Organization Business Income Tax Return

An organization exempt under R&TC Section 17631, or 23701a through 23701z, 23711 or 23712 with income from unrelated business activities (including income from leases of debt-financed property) may be required to file Form 109, Exempt Organization Business Income Tax Return.

A tax-exempt organization is not required to file Form 109 if:

- It is formed to carry out a function of the state;
- It is carrying out that function; and
- It is controlled by the state.

California and federal laws are generally the same with regard to unrelated business income.

Any income from a trade or business that is unrelated to the organization's exempt purposes, even though the profits are used for exempt purposes, is subject to taxation if it exceeds \$1,000. See R&TC Section 23732 for details on unrelated business taxable income.

NOTE: Political organizations exempt under R&TC Section 23701r and homeowners' associations exempt under R&TC Section 23701t are required to file Form 100 rather than Form 109 if they have income subject to tax. See Section C Form 100.

Due Date

The due date for the Form 109 depends upon how the organization was created.

- Incorporated organizations, unincorporated associations, and trusts other than pension trusts are required to file on or before the 15th day of the fifth month after the close of the accounting period. If the accounting period ends on December 31, the due date is May 15.
- Pension trusts are required to file on or before the 15th day of the fourth month after the close of the accounting period. If the accounting period ends on December 31, the due date is April 15.

If the due date for filing falls on a Saturday, Sunday, or legal holiday, file by the next regular workday.

Tax Rates

The rate at which tax is computed depends upon how the organization was created.

- Incorporated organizations and unincorporated associations pay tax at the general corporate tax rate.
- Trusts pay tax at the trust rate which is the same as the personal income tax rate for a single individual.

Penalties

- **Failure to File a Timely Return:** The delinquent penalty is computed at 5% of the tax due after allowing for timely payments, for each month or part of a month the return is late. The maximum penalty is 25%.
- **Failure to Pay Total Tax by the Due Date:** If any part of the tax shown on the return is not paid by the original due date, a penalty of 5% of the unpaid tax, plus 0.5% for each month, or part of the month (not to exceed 40 months), the tax remains unpaid. The maximum penalty is 25%.
NOTES: (a) If the organization is subject to both the penalty for failure to file a timely return and the penalty for failure to pay total tax by the due date, a combination of the two penalties may be assessed, but the total will not exceed 25% of the unpaid tax.
(b) These penalties may be waived if it can be shown that the late filing of the return or the late payment of tax was due to reasonable cause and not willful neglect.
- **Underpayment of Estimated Tax:** Any organization that fails to pay, pays late, or underpays an installment of estimated tax will be assessed a penalty. The penalty is a percentage of the underpayment for the underpayment period. Form FTB 5806, Underpayment of Estimated Tax by Corporations, may be used to determine both the amount of underpayment and the amount of penalty. This penalty cannot be waived for reasonable cause.
- **Accuracy and Fraud Related Penalties:** California conforms to IRC Sections 6662 through 6664 which authorized the imposition of an accuracy-related penalty equal to 20% of the related underpayment, and the imposition of a fraud penalty equal to 75% of the related underpayment.
- **Dishonored Payment Penalty:** A penalty may be imposed for any payment that is dishonored.
- **EFT Penalty:** A penalty of 10% of the amount paid will be assessed if the organization is required to pay by electronic funds transfer (EFT) and does not. For more information, see FTB Publication 3817 or call the Franchise Tax Board at the number listed under Tax Assistance.

C Form 100

Corporation Franchise or Income Tax Return

Form 100 is filed by political organizations exempt under R&TC Section 23701r and homeowners' associations exempt under

R&TC Section 23701t to report their respective taxable incomes.

Due Date

Form 100 is due on or before the 15th day of the third month after the close of the accounting period. If the accounting period ends on December 31, the due date is March 15. If the due date for filing falls on a Saturday, Sunday, or legal holiday, file by the next regular workday.

Tax Rate

Tax is computed at the general corporate tax rate. However, exempt organizations ARE NOT subject to the minimum tax.

Penalties

The same penalties apply as described in Section B Form 109.

EXCEPTION: Political organizations are not subject to the estimate penalty.

Political Organizations

"Political taxable income" means all amounts received during the taxable year other than (1) contributions of money or other property; (2) membership fees, dues, or assessments; and (3) proceeds from political fundraising or entertainment events, or proceeds from the sale of political campaign material not received in the ordinary course of any trade or business.

Political organizations ARE NOT required to make estimated tax payments. However, the tax must be paid in full on or before the original due date in order to avoid penalties.

For more information about Political Organizations, refer to FTB Publication 1075, Exempt Organizations -- Guide for Political Organizations.

Homeowners' Associations

A homeowners' association exempt under R&TC Section 23701t must file Form 100, Corporation Franchise or Income Tax Return, if it received "homeowners' association taxable income" in excess of \$100. Form 100 must be filed in addition to Form 199.

"Homeowners' association taxable income" means all income received during the taxable year other than amounts received from membership fees, dues, or assessments. Taxable income includes such items as, but not limited to: interest, dividends, rents, royalties, sale of assets and income from nonmembers.

For more information about homeowners' associations, refer to FTB Publication 1028, Guidelines for Homeowners' Associations.

D Extension of Time to File

If any return cannot be filed by the original due date, an automatic extension of seven months will be granted if the organization was not suspended on the original due date AND the return is filed on or before the extended due date.

E Consequences of Not Filing Required Returns and/or Paying Amount(s) Due

The corporate rights, powers, and privileges may be suspended or the exemption from tax may be revoked for failure to file a return or statement or pay any amount(s) due. An organization that is suspended or has its exemption revoked is subject to taxation if it continues to operate. It also loses the protection of the corporate shield if it is incorporated. Therefore, such an organization should revive to good standing, if suspended, OR reapply for exemption, if exemption was revoked. The primary requirements to be reinstated to good standing are:

- Correct the problem that caused suspension or revocation; AND
- File returns and/or pay any amounts due for the period(s) subsequent to suspension or revocation; AND
- File form FTB 3557, Application for Certificate of Revivor.

Other requirements may need to be met as well. For specific requirements, you may call or write. Be sure to give the corporation number and legal name of the organization.

F Miscellaneous Forms to be Filed and Related Assessments

- An annual statement of officers must be filed with the Office of the Secretary of State by all organizations incorporated or qualified in California. R&TC Section 19141 requires Franchise Tax Board to assess a penalty for failure to file an annual statement of corporate officers. The Franchise Tax Board DOES NOT have the authority to waive this penalty except as directed by the California Secretary of State's Office. For more information, contact:
CALIFORNIA SECRETARY OF STATE
PO BOX 944230
SACRAMENTO CA 94244-0230
TELEPHONE: (916) 653-1742
(not toll-free)
- If the organization is organized for public benefit purposes, it is required to file Form CT-2, Registry of Charitable Trusts Report. R&TC Section 23703 requires the Franchise Tax Board to disallow exemption and assess the minimum tax for any year(s) in which the

organization fails to properly file this form. The Franchise Tax Board DOES NOT have the authority to reinstate exemption or cancel the tax except as directed by the California Registry of Charitable Trusts. For more information, contact:

REGISTRY OF CHARITABLE TRUSTS
PO BOX 903447
SACRAMENTO CA 94203-4470
TELEPHONE: (916) 445-2023
(not toll-free)

Where to File

If a payment is included with your completed form, mail it to:

FRANCHISE TAX BOARD
PO BOX 942857
SACRAMENTO CA 94257-0701

Include your California corporation number on all payments.

If a payment is not required with your completed form, mail it to:

FRANCHISE TAX BOARD
PO BOX 942857
SACRAMENTO CA 94257-0700.

NOTE: If you are sending more than one return, use separate envelopes and separate checks to ensure that the returns and payments are processed correctly.

Tax Assistance

Telephone Assistance

Our toll-free service is available Monday through Friday, between 8 a.m. and 5 p.m. From the first working day in January through the due date for filing a tax return (generally April 15) service is available Monday through Friday 7 a.m. until 8 p.m. The best times to call are between 7 a.m. and 10 a.m. and between 6 p.m. and 8 p.m. Service is also available from 8 a.m. until 5 p.m. on the two Saturdays prior to the due date for filing a tax return.

From within the United States,
call (800) 852-5711

From outside the United States,
call (not toll-free) (916) 845-6500

For hearing impaired with TDD,
call (800) 822-6268

Para servicio en español para obtener información sobre impuestos o formularios, llame al número de teléfono (anotado arriba) que le corresponde.

Letters

If you find it necessary to write rather than call us, please address your letter to:

**FRANCHISE TAX BOARD
PO BOX 942857
SACRAMENTO CA 94257-0740**

Include your corporation or organization number and telephone numbers on all correspondence. Please allow 6-8 weeks for reply.

Where To Get Income Tax Forms

By Internet – if you have Internet access, you may download, view, and print California income tax forms and publications. Our Internet address is:

<http://www.ftb.ca.gov>

By phone – Use F.A.S.T. to order the California tax forms and publications listed below. To order a form on the list:

- Call (800) 338-0505, from within the United States; or
- (916) 845-6600, from outside the United States (not toll-free)
- Select bank and corporations income tax form requests.
- Enter the three-digit code shown to the left of the form title when you are instructed to do so.

we will send you two copies of each tax form and one copy of each set of instructions. Please allow two weeks to receive your order. If you live outside California, please allow three weeks to receive your order.

By mail – Write to:

**TAX FORMS REQUEST UNIT
FRANCHISE TAX BOARD
PO BOX 387
RANCHO CORDOVA CA 95741-0307**

- 817 Form 100, California Corporation Franchise or Income Tax Return
- 818 Form 100-ES, Corporation Estimated Tax
- 813 Form 100X, Amended Corporation Return
- 814 Form 109, Exempt Organization Business Income Tax Return
- 815 Form 199, Exempt Organization Return
- 821 Schedule P (100) Alternative Minimum Tax and Credit Limitations – Corporations
- 819 Schedule R, Apportionment and Allocation of Income
- 802 FTB 3500, Exemption Application
- 808 FTB 3539, Payment Voucher for Automatic Extension for Corporations and Exempt Organizations
- 832 FTB 3555A, Request for Tax Clearance for Exempt Organizations
- 804 FTB 3557, Application for Revivor
- 822 FTB 3885, Depreciation/Amortization
- 806 FTB 5806, Underpayment of Estimated Tax by Corporations
- 800 FTB Pub. 1028, Guidelines for Homeowners' Associations
- 812 FTB Pub. 1038, Guide for Corporations Dissolving, Withdrawing or Merging
- 809 FTB Pub. 1060, Guide for Corporations Starting Business in California
- 820 FTB Pub. 1068, Exempt Organizations Requirements for Filing Returns and Paying Filing Fees
- 801 FTB Pub. 1075, Exempt Organizations – Guide for Political Organizations